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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/776,574	02/11/2004	Hung-Hsiang Jonathan Chao	**19-0066	2779
23379 7590 02/17/2009 WOODCOCK WASHBURN LLP CIRA CENTRE, 12TH FLOOR 2929 ARCH STREET PHILADELPHIA, PA 19104-2891				
EXAMINER SAM PHIRIN				
ART UNIT		PAPER NUMBER		
2419				
MAIL DATE		DELIVERY MODE		
02/17/2009		PAPER		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

### Office Action Summary

**Application No.**

10/776,574

**Applicant(s)**

CHAO ET AL.

**Examiner**

PHIRIN SAM

**Art Unit**

2419

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 21 November 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-12, 15-26 and 28-32 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1-11, 15-26 and 28-32 is/are allowed.
- 6) ☒ Claim(s) 12 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 11 February 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

**DETAILED ACTION**

***Claim Rejections - 35 USC § 112***

1. Claim 12 is rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

**Regarding claim 12**, the limitation, “A machine-readable medium” is not disclosed in the specification.

***Claim Rejections - 35 USC § 101***

2. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

The claimed invention is directed to non-statutory subject matter.

**Regarding claim 12**, the limitations, “A machine-readable medium comprising: **a first data structure**...the first data structure comprising....; **a second data structure**....the second data structure comprising....; and **the path status information** comprises....” are related to computer-related invention that is clearly non-statutory fall into the same general categories as non-statutory, namely natural phenomena such as magnetism, and abstract ideas or laws of nature, which constitute “descriptive material”. Descriptive material can be characterized as either “functional descriptive material” or “non-functional descriptive material”. In this context, “A machine-readable medium comprising: **a first data structure**...; **a second data structure**...; and **the path status information**...” are characterized as the “functional descriptive material” consists of data structures and computer programs. On the other hand, the

“Non-functional descriptive material” includes music, etc. Therefore, both types of “descriptive material” are non-statutory when claimed as descriptive material per se. Data structures or computer programs stored in a computer readable medium are descriptive material and are not statutory because they are neither physical “things” nor statutory processes and a computer program itself is not a process.

***Allowable Subject Matter***

3. Claims 1-11, 15-26, and 28-32 are allowed.

***Response to Arguments***

4. Applicant's arguments with respect to claim above have been considered but are moot in view of the new ground(s) of rejection.

***Conclusion***

5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

- (1) US Patent 7,486,678 (Devanagondi et al.) discloses multi-slice network processor.
- (2) US 2009/0028152 (Shimonishi) discloses node apparatus.
- (3) US Patent 7,464,180 (Jacobs et al.) discloses prioritization and preemption of data frames over a switching fabric.
- (4) US Patent 7,366,165 (Kawarai et al.) discloses input line interface device and packet communication device.
- (5) US Patent 7,126,918 (Roberts) discloses micro-flow management.
- (6) US Patent 7,068,654 (Joseph et al.) discloses providing masquerading using a multiprotocol label switching.

(7) US 2004/0213156 (Smallwood et al.) discloses assigning packet queue priority.

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to PHIRIN SAM whose telephone number is (571)272-3082. The examiner can normally be reached on Increased Flexitime Policy (IFP) Program.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jay Patel can be reached on (571) 272 - 2988. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Respectfully submitted,

Date: February 12, 2009

By:           /Phirin Sam/            
Phirin Sam  
Primary Examiner  
Art Unit 2419